

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

<b>JUAN RODRIGUEZ,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civ. No. 05-325-JD</b>
	)	
<b>U. S. DRUG ENFORCEMENT ADMINISTRATION,</b>	)	
	)	
	)	
<b>Defendant.</b>	)	
	)	

**ORDER**

1. On October 5, 2005, Rodriguez filed a complaint requesting return of \$1,905 in U.S. Currency seized from him by the Nashua, NH, Police Department on March 29, 2004, and adopted for federal forfeiture by the U.S. Drug Enforcement Administration (“DEA”). Rodriguez complained that DEA denied him constitutionally adequate notice of the procedural steps of the administrative forfeiture proceeding, although Rodriguez conceded that he received actual notice of the forfeiture on June 9, 2004, including instructions on how to file a claim or petition for remission or mitigation of forfeiture.

2. On December 12, 2005, the Court found that Rodriguez’s complaint alleged a post-conviction claim for civil equitable relief against DEA, and ordered that the United States respond. On February 13, 2006, the United States filed a motion to dismiss Rodriguez’s complaint for lack of subject matter jurisdiction, which asserted that the DEA forfeiture was not subject to judicial review because Rodriguez had received constitutionally-adequate notice of the proceeding and had failed to file a timely claim, as required to obtain judicial review.

3. The Court dismissed the complaint on March 29, 2006, entering judgment on the same date. Rodriguez filed a motion for reconsideration, which was denied on April 26, 2006, and filed a timely appeal to the United States First Circuit Court of Appeals. On March 30, 2007, the First Circuit reversed and remanded for fact findings regarding Rodriguez's due process claim.

4. On June 28, 2007, the United States filed a Consent to Set Aside DEA's Administrative Forfeiture in this case.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

The Administrative Declaration of Forfeiture entered on August 4, 2004, in DEA Case No. CG-04-0051, Asset Identification No. 04-DEA-435501, \$1,905 in U.S. Currency seized from Juan Rodriguez is hereby vacated and set aside, in accordance with the provisions of 18 U.S.C.

§ 983(e);

IT IS FURTHER ORDERED that the setting aside of the Administrative Declaration of Forfeiture is without prejudice to the United States and its right to commence a subsequent proceeding against the \$1,905 in U.S. Currency within 60 days of the entry of the order granting Rodriguez's motion, in accordance with the provisions of 18 U.S.C. § 983(e).

Dated: June 28, 2007 \_\_\_\_\_

/s/ Joseph A. DiClerico, Jr. \_\_\_\_\_

United States District Judge